

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JAMES H. SMALLEY,

Plaintiff,

v.

GEORGE A. LOMBARDI, et al.,

Defendants.

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No. 4:14-CV-0386-CDP

**MEMORANDUM AND ORDER**

This matter is before the Court for collection of plaintiff's appellate filing fee as directed by the United States Court of Appeals for the Eighth Circuit [Docs. #18 and #19]. Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner appealing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20% of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20% of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*


Plaintiff has submitted an affidavit and a certified copy of his prison account statement for the six-month period immediately preceding the submission of his complaint. A review of plaintiff's account indicates an average monthly deposit of \$16.58, and an average monthly balance of \$1.40. Plaintiff has insufficient funds to pay the entire filing fee. Accordingly, the Court will

assess an initial partial filing fee of \$3.32, which is 20% of plaintiff's average monthly deposit.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff shall immediately pay an initial filing fee of \$3.32. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an appellate proceeding.

Dated this 20th day of March, 2015.

  
**CATHERINE D. PERRY**  
**UNITED STATES DISTRICT JUDGE**